



W.P.No. 334 of 2024

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2024

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

W.P.No.334 of 2024

P. Thanikachalam

.. Petitioner

Versus

1. The Secretary
Housing and Urban Development Department,
Fort St. George, Chennai 600 015.

2. The Director of Town and Country Planning
Office of the Directorate of Town and Country Planning
Second, Third and Fourth Floor,
C&E Market Road,
Koyambedu Chennai – 600 107.

3. The Member Secretary,
Erode Town and country Planning Authority Office
Chennimalai Road
Opposite to Govt I.T.T,
Erode – 638 009.

...Respondents

Prayer: This petition is filed under Article 226 of the Constitution of India to issue a writ of Declaration to declare the reservation made in respect of the property in R.S.No.104/5 and Old R.S.No.104/4, new



W.P.No. 334 of 2024

WEB COPY

R.S.No.104/4B Punjailakkapuram Village, Modakkurichi Taluk, Erode District forming part Punjailakkapuram Detailed Development Plat No.5 to have lapsed, in view of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 by appreciating the above stated facts and pass orders.

For Petitioner : Mr.M.Guruprasad

For Respondents : Mrs. Meera Arumugam
Additional Government Pleader

ORDER

This petition is filed to declare the reservation made in respect of the property in R.S.No.104/5 and Old R.S.No.104/4, new R.S.No.104/4B Punjailakkapuram Village, Modakkurichi Taluk, Erode District forming part Punjailakkapuram Detailed Development Plat No.5 to have lapsed, in view of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971

2.The facts of the case is that the petitioner is the owner of the land measuring to an extent of 1.06 hectares, situated at in R.S.No.104/5 and Old R.S.No.104/4, new R.S.No.104/4B Punjailakkapuram Village,



W.P.No. 334 of 2024

WEB COPY

Modakkurichi Taluk, Erode District. While so, C1-C1 50 feet scheme road has been announced by the Government of Tamil Nadu vide R.O.C.No.75/2005/ELPA-2 which affects the petitioner's property. Aggrieved over the same, the present has been filed before this Court seeking for appropriate orders.

3. The learned counsel for the petitioner submitted that the development plan automatically lapses on the expiry of three years from the date of publication as per Section 38 of the Tamil Nadu Town and Country Planning Act, 1971(hereinafter referred as “the Act”). Hence, prays to allow this petition.

4. Per Contra the learned Government Advocate appearing for the Respondents submitted that Section 38 of Tamil Nadu Town and Country Planning Act 1971, will not be applicable to this case. He further submitted that C1-C1 50 feet scheme road is for public utility and the purpose of the acquisition is only for the future development in the said area.



W.P.No. 334 of 2024

WEB COPY

5. Before advertizing further it is relevant to extract Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 and the same is extracted hereunder:

“ 38. Release of land:- If within three years from the date of the publication of the notice of the Tamil Nadu Government Gazettee under Section 26 or 27-

(a) no declaration as provided in sub-section (2) of section 37 is published in respect of any land reserved, allotted or designated for any purpose specified in a regional plan, master plan, detailed development plan or new town development plan covered by such notice; or

(b) such land is not acquired by agreement, such land shall be deemed to be released from



WEB COPY



W.P.No. 334 of 2024

reservation, allotment or designation.”

6. On going through the above provision it is made clear that if no declaration is made as provided under Section 37(2) of the Act, the reservation or allotment or designation of the land for any purpose in the development plan will stand released. There is no material to show that any declaration was made under Section 37(2) of the Act, pursuant to the C1-C1 50 feet scheme road.

7. For the foregoing reasons, this Court directs the respondents to consider the case of the petitioner and pass appropriate orders within a period of five months from a receipt of a copy of this order, if it is otherwise in order. If any road or street formed by the Department the same shall not be released.

8. With the aforesaid direction, this writ petition is disposed of. No order as to costs.

04.04.2024

Speaking order : Yes/No
Neutral citation : Yes/No
Index : Yes/No



W.P.No. 334 of 2024

To

1. The Secretary
Housing and Urban Development Department,
Fort St. George, Chennai 600 015.
2. The Director of Town and Country Planning
Office of the Directorate of Town and Country Planning
Second, Third and Fourth Floor,
C&E Market Road,
Koyambedu Chennai – 600 107.
3. The Member Secretary,
Erode Town and country Planning Authority Office
Chennimalai Road
Opposite to Govt I.T.T,
Erode – 638 009.
4. The Section Officer, V.R.Section,
High Court, Madras.



WEB COPY



W.P.No. 334 of 2024

V.BHAVANI SUBBAROYAN, J.

smn

W.P.No.334 of 2024

04.04.2024